

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 26-27, FOOD AND DRUGS ACT.

(N. J. 26.)

MISBRANDING OF CANNED BLACKBERRIES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the food and drugs act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of September, 1908, in the District Court of the United States for the Western District of Oklahoma, in a prosecution by the United States against J. W. Ogburn, a member of the firm of J. S. Ogburn & Company, Lindale, Texas, for violation of section 2 of the aforesaid act, in shipping from Texas to Oklahoma and thereafter delivering to another in original packages, canned blackberries, misbranded as to weight, the said J. W. Ogburn entered a plea of guilty, whereupon the court imposed upon him a fine of one hundred dollars.

The facts in the case are as follows:

On July 29, 1908, an inspector of the Department of Agriculture collected from a consignment of canned blackberries in the custody of the Ridenour-Baker Mercantile Company, Oklahoma City, Oklahoma, 6 cans which were contained in a shipping case bearing the label "Lindale Brand, 2 lb. Blackberries, Packed by J. S. Ogburn & Company, Lindale, Texas." The samples were a part of a consignment of 800 cases shipped to the Ridenour-Baker Mercantile Company by J. S. Ogburn & Company, Lindale, Texas, on June 15, 1908, and seized on July 28, 1908, by the United States marshal under proceedings for forfeiture and condemnation.

The samples were weighed in the Bureau of Chemistry, and the following results obtained and stated:

Can No.	Ounces.
1-----	23
2-----	23
3-----	23.25
4-----	24
5-----	23
6-----	23

As the average gross weight of each can was found to be less than 1 pound 8 ounces, and the claim was made on the label that each can weighed 2 pounds, the goods were misbranded. The United States attorney for the western district of Oklahoma filed an information against J. W. Ogburn for the aforesaid offense, with the result hereinbefore stated.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,

Board of Food and Drug Inspection.

Approved:

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *November 2, 1908.*

(N. J. 27.)

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(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the food and drugs act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of September, 1908, in the District Court of the United States for the Western District of Oklahoma, in a proceeding of libel for condemnation of 800 cases of canned blackberries, misbranded as to weight, wherein the United States was libelant and J. S. Ogburn & Company of Lindale, Tex., were claimants, the said claimants having filed their answer, and the cause having come on for a hearing, a decree of forfeiture and condemnation was rendered in substance and in form as follows:

In the District Court of the United States for the Western District of Oklahoma.

THE UNITED STATES, <i>Libelant,</i>	}	No. 38.
<i>vs.</i>		
EIGHT HUNDRED CASES OF BLACKBERRIES.		Decree of condemnation.

Now, to wit, on the 11th day of September, 1908, at a term of said court, at Enid, in said district, said cause came on for trial, and it appearing to the court that upon the libel filed herein monition and warrant of arrest was duly issued and served on the 28th day of July, 1908, and that by virtue of said warrant the marshal has seized and now holds eight hundred cases of blackberries of the approximate value of \$1,000, containing two dozen cans to the case, the said eight hundred cases of blackberries with contents having been seized within the premises and in the possession of the Ridenour-Baker Mercantile Company, a corporation of Oklahoma City, within said district, and now being stored in the custody of the said marshal, and it appearing that J. S. Ogburn & Company, of Lindale, Tex., a copartnership composed of J. S. and J. W. Ogburn, the respondent herein, the owners of said eight hundred cases of blackberries, were duly warned to appear herein on the 7th day of September, 1908, and that due and legal notice and proclamation were given to all persons having or claiming to have any claim, right, or interest therein, or in or to said property, to appear